

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DEBORAH ANN HOWDESHELL,

Plaintiff,

v.

Case No.: 2:20-cv-514-SPC-MRM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 17](#)). Judge McCoy recommends reversing and remanding the decision of the Commissioner of the Social Security Administration pursuant to § 405(g) of the Social Security Act, [42 U.S.C. § 405\(g\)](#). Neither party objects to the Report and Recommendation, and the time to do so has expired.

A district judge “may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

§ 636(b)(1). The judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* And “[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file independently and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

ORDERED:

The Report and Recommendation ([Doc. 17](#)) is **ACCEPTED** and **ADOPTED** and the findings incorporated therein.

1. The decision of the Commissioner of the Social Security Administration pursuant to sentence four of [42 U.S.C. § 405\(g\)](#) is **REVERSED AND REMANDED**.
2. The Commissioner is instructed on remand to do the following:
 - (1) Fully comply with [HALLEX I-2-6-70\(b\)](#), in the event a medical examiner is used; (2) properly consider Plaintiff’s GI impairments; (3) properly consider the third-party evidence; and (4) re-evaluate all medical evidence of record.
3. The Court: (1) suspends application of Local Rule 7.01 in this action; (2) instructs Plaintiff that a motion for fees and costs must be filed as a single motion requesting a determination of both entitlement and

amount; and (3) instructs Plaintiff that if she prevails on remand, she must comply with the November 14, 2012 Order ([Doc. 1](#)) in Case Number 6:12-mc-124-Orl-22.

4. The Clerk is **DIRECTED** to enter judgment, deny any pending motions as moot, terminate any deadlines, and close the case.

DONE and **ORDERED** in Fort Myers, Florida on November 23, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record